

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

ORDER DIVIDING AND CHANGING OWNERSHIP OF APPROPRIATION A-2784

WATER DIVISION 1-D

Background

1. Records on file in the Department of Natural Resources (Department) show that a portion of surface water appropriation A-2784 located in the NE $\frac{1}{4}$ NW $\frac{1}{4}$ and the W $\frac{1}{2}$ NE $\frac{1}{4}$ of Section 16, Township 9 North, Range 2 East of the 6th P.M. in Seward County, is currently held by Eldon E. and Eileen Hostetler.
2. Records on file in the Department of Natural Resources show that a portion of surface water appropriation A-2784 located in the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 16, Township 9 North, Range 2 East of the 6th P.M. in Seward County is currently held by John Schnack, and Gregory and Janice Schnack.
3. Appropriation A-2784 has a priority date of September 11, 1937, and authorizes the use of water for irrigation of the 42.9 acres of land described below. The water may be diverted from the West Fork of the Big Blue River at points of diversion located on both banks of the stream in the NE $\frac{1}{4}$ NW $\frac{1}{4}$, the SW $\frac{1}{4}$ NE $\frac{1}{4}$ and the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 16, Township 9 North, Range 2 East of the 6th P.M. in Seward County. The rate that water may be diverted shall not exceed one cubic foot per second (cfs) for every 140 acres irrigated at a maximum combined rate of 0.31 cfs from all points of diversion. Total annual volume of water diverted may not exceed 3 acre-feet per acre irrigated.

Township 9 North, Range 2 East of the 6 th P.M. in Seward County		Acres
Section 16: NE $\frac{1}{4}$ NW $\frac{1}{4}$		13.6
NW $\frac{1}{4}$ NE $\frac{1}{4}$		2.5
SW $\frac{1}{4}$ NE $\frac{1}{4}$		8.9
SE $\frac{1}{4}$ NE $\frac{1}{4}$		<u>17.9</u>
TOTAL		42.9

4. Gregory D. and Janice K. Schnack filed a Notice of Change of Ownership indicating that they are the owners of a portion of the land located in the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 16, Township 9 North, Range 2 East of the 6th PM in Seward County, authorized to be irrigated by appropriation A-2784.

Order

IT IS HEREBY ORDERED:

1. Appropriation A-2784 is divided into two appropriations, A-2784A and A-2784B.
2. Appropriation A-2784A is held by Eldon E. & Eileen Hostetler.

- A. They are allowed to divert 0.18 cfs (81 gallons per minute) from the West Fork of the Big Blue River to irrigate the 25.0 acres of land described below and as depicted on map number 17571 which is hereby made a part of this Order. The total rate that water may be diverted shall not exceed one cfs per 140 acres irrigated. Total annual volume of water diverted may not exceed 3 acre-feet per acre irrigated.

<u>Township 9 North, Range 2 East of the</u> <u>6th P.M. in Seward County</u>		<u>Acres</u>
Section 16:	NE $\frac{1}{4}$ NW $\frac{1}{4}$	13.6
	NW $\frac{1}{4}$ NE $\frac{1}{4}$	2.5
	SW $\frac{1}{4}$ NE $\frac{1}{4}$	<u>8.9</u>
	TOTAL	25.0

- B. All terms and conditions of appropriation A-2784 remain in effect unless specifically changed by this Order.
 - C. The points of diversion remain on both banks of the West Fork of the Big Blue River in the NE $\frac{1}{4}$ NW $\frac{1}{4}$, the SW $\frac{1}{4}$ NE $\frac{1}{4}$ and the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 16, Township 9 North, Range 2 East of the 6th P.M. in Seward County. If the owners of appropriation A-2784A do not have access to these points of diversion, they must either obtain permission from the landowner or apply for a new point of diversion. This Order does not authorize access to the existing points of diversion.
3. Appropriation A-2784B is held by Gregory D. and Janice K. Schnack.
 - A. They are allowed to divert 0.13 cfs (58 gallons per minute) from the West Fork of the Big Blue River to irrigate the 17.9 acres of land described below and as depicted on map number 17572 which is hereby made a part of this Order. The total rate that water may be diverted shall not exceed one cfs per 140 acres irrigated. Total annual volume of water diverted may not exceed 3 acre-feet per acre irrigated.

<u>Township 9 North, Range 2 East of the</u> <u>6th P.M. in Seward County</u>		<u>Acres</u>
Section 16:	SE $\frac{1}{4}$ NE $\frac{1}{4}$	17.9

- B. All terms and conditions of appropriation A-2784 remain in effect unless specifically changed by this Order.

- C. The points of diversion remain on both banks of the West Fork of the Big Blue River in the NE¼NW¼, the SW¼NE¼ and the SE¼NE¼ of Section 16, Township 9 North, Range 2 East of the 6th P.M. in Seward County. If the owners of appropriation A-2784B do not have access to these points of diversion, they must either obtain permission from the landowner or apply for a new point of diversion. This Order does not authorize access to the existing points of diversion.

Additional Information

Failure to comply with all laws and regulations pertaining to surface water appropriations, any orders issued by the Director of the Department of Natural Resources, or the provisions of this approval may cause cancellation of part or all of this appropriation, temporary closing of the appropriation, administrative penalty, criminal prosecution, or any combination thereof.

Nebraska law provides that failure to use an appropriation for more than five consecutive years may result in cancellation of the appropriation.

These appropriations are not a guarantee that water will be available. Nebraska law gives priority to senior appropriations. These appropriations may be closed if there is insufficient water to satisfy senior appropriations.

DEPARTMENT OF NATURAL RESOURCES

December 31, 2009

_____/s/
Brian P. Dunnigan, P.E., Director

The applicant and any person with sufficient legal interest who has been or may be substantially affected by this Order may request a contested case hearing in accordance with the Nebraska Administrative Procedures Act (Sections 84-901 et. seq. RSS) and the Department's Rules of Practice and Procedure (454 N.A.C. Chapter 007). The request must be received by the Department at its Lincoln office (301 Centennial Mall South, 4th Floor State Office Building, Lincoln, Nebraska 68509-4676) within 30 days of the date of the order and be accompanied by a filing fee of \$10.

A copy of this Order was posted on the Department's website. Copies of this Order and maps number 17571 and 17572 were provided to the Department's field office in Lincoln, Nebraska. Copies of this Order and maps number 17571 and 17572 were mailed on December_____, 2009, to the following:

Gregory D. & Janice K. Schnack
17610 Schram Road
Gretna, Nebraska 68028

Eldon E. & Eileen Hostetler
c/o Roger Hostetler
3590 Old Cheney Road
Beaver Crossing, Nebraska 68313